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AN ENVIRONMENTAL AND ENERGY LAW PRACTICE



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October 22, 2014

PHILADELPHIA, PA
*CHERRY HILL, NJ
WILLIAMSPORT, PA
by appointment only

Via Overnight Mail

Bonnie Hriczko
Removal Action Branch
U.S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue, MS-211
Edison, New Jersey 08837

*Partner responsible - Bruce S. Katcher

**Re: Thermoseal Industries, LLCs Response to EPA Request for Information –
Superior Barrel & Drum Site, Elk, Gloucester County, New Jersey**

Dear Ms. Hriczko:

Our firm represents Thermoseal Industries, LLC (the “Company”) and hereby submits, on the Company’s behalf, this response to the Request for Information (“Request”) dated August 27, 2014 from the United States Environmental Protection Agency (“EPA”) concerning the Superior Barrel and Drum Site (“Site”) (we were granted an extension to respond until October 22, 2014 by William Tucker, the Regional Counsel attorney assigned to this matter). The Company has undertaken a thorough investigation designed to identify available existing documents and/or other information in its possession, custody or control that is responsive to the Request. The Company reserves the right to supplement, modify, or amend this response if it discovers additional responsive information.

This response reflects the Company’s efforts to respond to the questions contained in the request to the extent reasonably possible. Nonetheless, the Company makes this response without admitting that EPA has the authority to require production of the information requested. Nothing contained in this response constitutes an admission of any liability or responsibility on the part of the Company with respect to any costs incurred by EPA or any other party relating to the Site. The Company reserves all defenses and rights available to it under the law.

Consistent with its own policy of cooperation with federal and state environmental authorities, the Company intends to cooperate with respect to the Request. The breadth of the Request, however, requires that the Company raise both general and specific objections to the request.

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General Objections

The Company asserts the following General Objections to the Request, which the Company hereby incorporates in each response to the individual questions below. To the extent the Company responds to any of the questions below, it in no way waives any of the objections stated herein.

1. The Company objects to the Request to the extent the Request exceeds the scope of EPA's authority under the statutory references cited in the Request.
2. The Company objects to the Request as overly broad and unduly burdensome. The Request seeks information that is irrelevant and/or has no relation to the Site or relevance to this inquiry, including detailed information and documents regarding products and wastes even where no connection to the Site appears to exist. Further, the Company objects to the Request because the Request seeks information regarding activities at a level of detail that is impossible to provide without extreme burden and oppression, if at all. The burden on the Company is enhanced because many of the events and circumstances that appear to be at issue took place many years ago. With the passage of time, complete records may no longer exist, relevant witnesses with firsthand knowledge are now deceased, memories have faded, and any attempt to recreate history often presents an insurmountable challenge and an undue burden.
3. The Company objects to the Request to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the joint defense privilege, and any other legally cognizable privilege. The Company further objects to the Request to the extent it dictates the manner in which those privileges are to be asserted.
4. The Company objects to the Request to the extent that it seeks information in the possession, custody, or control of EPA, or any other local, state, or federal governmental authority. The Company further objects to the Request to the extent that it seeks information that is a matter of public record.
5. The Company objects to the Request to the extent that it seeks information outside of the Company's possession, custody or control.

Response to Request for Information

1.

- a. State the correct legal name of the Company.

Thermoseal Industries, LLC.

- b. Identify the legal status of the Company (corporation, partnership, specify if other) and the state in which the Company was Organized.**

The Company is a limited liability company organized in New Jersey.

- c. State the names and addresses of the President, Chairman of the Board and the Chief Executive Officer of the Company.**

Richard A. Chubb
Chief Executive Officer
Thermoseal Industries, LLC
400 Water Street
Gloucester, New Jersey 08030

- d. Provide the name of an attorney, if any, who will serve as the legal contact for your Company in this matter.**

I am the Company's attorney who will be serving as the legal contact for this matter. My contact information is as follows:

Bruce S. Katcher
Manko, Gold, Katcher & Fox, LLP
401 City Avenue, Suite 901
Bala Cynwyd, Pennsylvania 19004
484-430-2320

- e. If your Company is a subsidiary or affiliate of another corporation, or has subsidiaries itself, identify each such entity and its relationship to your company.**

The Company is neither an affiliate nor a subsidiary of another corporation. The Company also does not have any subsidiaries.

- f. Identify the state and date of incorporation and the agent of service of process in the State of incorporation and in the State of New Jersey for your Company and for each entity identified in your response to Question 1(e), above.**

The Company was organized in New Jersey in January 1996. The Company's agent of service of process is:

Richard A. Chubb
400 Water Street
Gloucester, New Jersey 08030

- g. If the Company is a successor to, or has been succeeded by another entity, identify each such other entity and provide the same information requested above for each.**

The Company objects to this Request to the extent it calls for a conclusion of law. Subject to and without waiving the foregoing objection, the Company acquired assets from Thermoseal Glass Corporation in January 1996. Thermoseal Glass Corporation retained all liabilities arising from the operation of its business prior to the closing date of the asset purchase.

- h. If the Company transacted business with SBD in the name of an entity not already disclosed above, give the name of such entity and state its relationship to the Company.**

The Company has identified no information that would indicate that it has ever transacted business with SBD.

2. State whether any of your Company's facilities have ever conducted any business transactions of any nature with Superior Barrel and Drum Company, Inc. ("SBD"), including but not limited to the sale, purchase, removal, disposal, treatment, or storage of any barrels, drums, totes, overpacks or other containers (hereinafter collectively referred to as "Containers").

The Company has no record of having ever conducted any business transactions with SBD.

3. If your answer to Question 2, above, is yes, identify each company facility involved in all such transactions and provide the following information for each facility:

- a. State the name and address of each facility and describe each facility's operations;**
- b. For each facility, describe the nature of business relationship between that facility and SBD, including the nature of services rendered or products sold;**
- c. Provide copies of any contracts, agreements or other arrangements between that facility and SBD;**
- d. Provide copies of all permits issued pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA") for each facility; and**

e. Identify the EPA RCRA identification number, if any, for each facility.

This Question is not applicable because no transactions are identified in the response to Question 2.

4. If your answer to Question 2, above, is yes, did any of the transactions between any Company facility and SBD involve the transport or shipment of any Containers from that facility to SBD by any person, regardless of whether such Containers contained no material whatsoever, contained more or less than one inch of material, or may have been described as RCRA "empty"?

This Question is not applicable because no transactions are identified in the response to Question 2.

5. If your answer to Question 4, above, is yes, for each such transaction provide the following information:

- a. Identify the specific dates of each transaction, the Company facility involved with each transaction, the intended purpose of each transaction, and the number and type of Containers involved in each transaction;**
- b. Provide copies of all documents relating in any way to each transaction, including but not limited to copies of delivery receipts, invoices, bills of lading, purchase orders or payment devices; and**
- c. Identify all persons who might have knowledge of the transaction or who had any responsibility regarding the transaction.**

Based on the Company's responses to Questions 2 and 4, this Question is not applicable.

6. For each Company facility identified in response to Question 5, above, for the time period from 1974 to 2013:

- a. Describe that facility's operations;**
- b. Identify all chemicals used as raw materials in that facility's operations;**
- c. Identify all chemicals contained in products produced at that facility;**
- d. Identify all chemicals used to clean equipment or machinery at that facility;**
- e. Identify the nature and chemical constituents of all waste streams at that facility and their disposition;**
- f. Identify any other chemicals used at that facility and describe their use; and**
- g. Provide all Material Safety Data Sheets (MSDS) for all chemicals listed in answer [sic] to this Question 6.**

Based on the Company's responses to Questions 2, 4 and 5, this Question is not applicable.

7. Was any container identified in response to Question 5, above, previously used to contain any material? If your answer is yes, for each such Container provide the following:

- a. Identify each material previously contained within such Container, including its specific chemical constituents, physical state, quantity by volume and weight, and hazardous and other characteristics.**
- b. Provide all written analyses or other documents prepared for or relating to each such material which may be in the custody or control of the Company; and**
- c. Provide all material safety data sheets (MSDS) relating to each such material.**

Based on the Company's responses to Questions 2, 4 and 5, this Question is not applicable.

8. Did any Container that was the subject of any transaction identified in response to Question 5, above--contain [sic] any material whatever, in any quantity, at the time of its transport or shipment from the Company facility, regardless of whether or not it is or was ever alleged to be "empty" under RCRA, or alleged to contain less than one inch of material?

Based on the Company's responses to Questions 2, 4 and 5, this Question is not applicable.

9. If your answer to Question 8 is yes, for each Container that contained any material whatever, in any quantity, at the time of its transport or shipment from the Company facility:

- a. Identify each such material, including its specific chemical constituent(s), physical state, quantity by volume and weight, and hazardous and other characteristics;**
- b. Provide all written analyses or other documents prepared for or relating to each such material which may be in the custody or control of the Company; and**
- c. Provide all material safety data sheets (MSDS) relating to each such material.**

Based on the Company's responses to Questions 2, 4, 5, and 8, this Question is not applicable.

10. Do you contend that any Container that was the subject of any transaction identified in response to Question 5, above, did NOT contain any material whatever, in any quantity, at the time of its transport or shipment from the Company facility?

Based on the Company's responses to Questions 2, 4 and 5, this Question is not applicable.

11. If your answer to Question 10 is yes, for each such Container provide all facts upon which you rely for your assertion.

Based on the Company's responses to Questions 2, 4, 5, and 10, this Question is not applicable.

12. For those transactions identified in response to Question 5, was any treatment or cleaning of any container performed by any person prior to the time that the Container was transported or shipped from the Company to SBD, including any process or procedure by which the Container was emptied, drained, wiped or otherwise cleaned?

Based on the Company's responses to Questions 2, 4 and 5, this Question is not applicable.

13. If your answer to Question 12, above, is yes, for each such Container provide a detailed description of all such treatment, including any emptying, draining, wiping, or cleaning, and identify all chemicals used in such treatment or cleaning.

Based on the Company's responses to Questions 2, 4, 5, and 12, this question is not applicable.

14. For each transaction identified response to Question 5 involving any third-party transporter, identify such transporter, including the name and address of such transporter, and identify in which of the transactions the transported acted.

Based on the Company's responses to Questions 2, 4 and 5, this question is not applicable.

15. Identify each person consulted in responding to these questions and all questions on which he or she was consulted.

In addition to General Objections set forth above, the Company objects to this Question as overbroad and unduly burdensome. This information request involves matters of a historical nature, thus has required the efforts of numerous Company employees to search for records or other documents that were potentially response to the Request. Given the wide-ranging efforts of the Company's employees to respond to the Request, it is not possible to respond to this Question as written.

Subject to and without waiving the foregoing objections, the Company consulted with the following persons, in addition to counsel, in the course of preparing its responses:

Richard A. Chubb, Chief Executive Office
Lisa Chubb, Chief Financial Officer
Christina Bradly, Comptroller
Suzanne Mazza, Materials Manager
Dan Nichols, Director of Operations

All four of the individuals identified in this response may be contacted at the following address and phone number:

400 Water Street
Gloucester City, New Jersey 08030
856-456-3109

16. Identify any other person or entity (e.g., individual, company, partnership, etc.) having knowledge of facts relating to questions which are the subject of this inquiry. For each such person that you identify, provide the name, address, and telephone number of that person, and the basis of your belief that he or she has such knowledge. For past and present employees, include their job title(s) and a description of responsibilities.

In addition to the General Objections set forth above, the Company objects to this Question as overbroad, unauthorized by law to the extent it is overbroad, and unduly burdensome. Subject to and without waiving the foregoing objections, the Company has not identified any other person or entity having knowledge of facts relating to questions which are the subject of this inquiry.

17. Supply any additional information or documents that may be relevant or useful to identify other sources who disposed of or transported Containers to the Site.

In addition to the General Objections set forth above, the Company objects to this Question as overbroad, unauthorized by law to the extent it is overbroad, and unduly burdensome. Subject to and without waiving the foregoing objections, the Company does not have any information on other sources that disposed of or transported Containers to the Site.

Respectfully submitted,

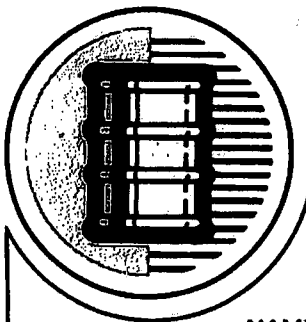


Bruce S. Katcher

For MANKO, GOLD, KATCHER & FOX, LLP

Enclosure

cc: William Tucker, Esq.
Richard A. Chubb



SUPERIOR BARREL AND DRUM CO. INC.
P.O. BOX 741 • GLASSBORO, NJ 08028 • (609) 881-5866

NAME THOMAS J. HALL

ADDRESS 400 WATER ST.

CITY GLASSBORO STATE N.J. ZIP

DATE

CUSTOMER PO

QUANTITY	DESCRIPTION	PRICE	AMOUNT
42	EMPTY DRUMS		

REC'D. [Signature]

EMPTY DRUM CERTIFICATION

I hereby certify that these drums are "empty" as that term is defined in the National Environmental Protection Agency regulations, 40 CFR 261.7*, and that they have been properly prepared for transportation under the regulations of the U.S. Department of Transportation, 49 CFR 173.29.**

Print Name JOHN J. EGAN

Signature [Signature]

*With regard to most regulated residues, EPA's 40 CFR 261.7 says:

"A container... is empty if:

(I) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating.

and

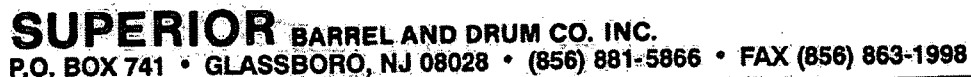
(II) No more than 2.5 centimeters (one inch) of residue remain on the bottom of the container..."

EPA has explained this rule, saying that "one inch of waste material is an overriding constraint and may remain in an empty container only if it cannot be removed by normal means. The rationale for this provision is that there are certain tars and other extremely viscous materials that will remain in the container even after the container is emptied by normal means."

For residues of products specifically listed by name in 40 CFR 261.33(e), EPA says the container is empty only "if the container... has been triple-rinsed using a solvent capable of removing" the product, or has been cleaned by another method shown to achieve equivalent removal.

**DOT's 49 CFR 173.29 says that all openings on the empty container must be closed, and that all markings and labels must be in place as if the drum were full of its original contents. A DOT shipping paper is not required for transportation of a drum for reconditioning via contract or private motor carrier. DOT placarding is not required for vehicles carrying empty containers.

"DEALER IN STEEL DRUMS"



"DEALER IN STEEL DRUMS"

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thermoseal Industries, LLC

400 Water St.

Gloucester, NJ 08030

Attn: Richard Chubb, President

5SEP 11:39AM

2. Article Number

(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Alexa Walter*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Alexa Walter

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail®

☐ Priority Mail Express™

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee)

☐ Yes

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Bonnie Hriczko
U.S. Environmental Protection Agency
Removal Action Branch-(MS-211)
Building 205
2890 Woodbridge Avenue
Edison, New Jersey 08837-3679




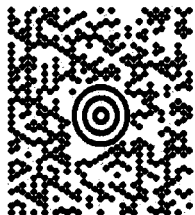


UPS Internet Shipping: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. Fold the printed sheet containing the label at the line so that the entire shipping label is visible. Place the label on a single side of the package and cover it completely with clear plastic shipping tape. Do not cover any seams or closures on the package with the label. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. **GETTING YOUR SHIPMENT TO UPS**
UPS locations include the UPS Store®, UPS drop boxes, UPS customer centers, authorized retail outlets and UPS drivers.
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Hand the package to any UPS driver in your area.
Take your package to any location of The UPS Store®, UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot® or Staples®) or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the 'Find Locations' Quick link at ups.com.

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BARBARA DZIEDZIC 484-430-2337 MANKO, GOLD, KATCHER & FOX, LL 401 CITY AVENUE BALA CYNWYD PA 19004		0.0 LBS LTR		1 OF 1	
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